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COMMISSION ON HUMAN RIGHTS
Intergovernmental working group of experts
on human rights of migrants
Third session
Geneva, 23 - 27 November 1998

**INFORMATION AND COMMENTS
RECEIVED FROM GOVERNMENTS,
UNITED NATIONS BODIES, SPECIALIZED AGENCIES,
INTERGOVERNMENTAL AND NON-GOVERNMENTAL
ORGANIZATIONS**

Report of the Secretary-General

ANNEX

Submission from the Government of the Netherlands
dated 4 March 1998

Replies to the questionnaire on the human rights of migrants

Question 1 What are the latest figures or estimates for:

a: total population, including non-nationals, preferably by nationality of origin;

The most recent figures, published by Statistics Netherlands (CBS), reflect the situation as at 1 January 1996.

The table below gives the population figures for the main groups targeted by Dutch minorities policy, according to country of origin and nationality. For a complete breakdown, see annexe 1 (CBS Monthly Statistics, January 1997, table 1: Population according to nationality and country of birth, 1 January 1996).

Nationality	Born in the Netherlands	Born in country of nationality
Turkish	46,000	107,522
Moroccan	45,464	103,778
Surinamese	527	14,452
Italian	5,168	11,216
Former Yugoslavia	2,572	30,569
Spanish	3,363	12,816

Annexe 2 presents a breakdown of the ethnic minority population according to country of origin, regardless of official nationality (CBS Monthly Statistics, January 1997, table 2).

b: number of nationals abroad, preferably by country of residence.

No records are kept of Dutch nationals living abroad.

c: non-nationals having authorization to work in the country;

The Ministry of Foreign Affairs keeps records of employment figures only in respect of ethnic minorities. It does not itself keep or publish data on the number of work permits issued to migrants. For the record, the following table shows the number of people of Dutch and non-Dutch origin employed in the Netherlands (source: CBS Yearbook, 1996).

Employment figures for the working population aged 15-64 according to ethnic origin

	1990	1992	1993	1994	1995
<i>x 1000</i>					
<u>People of Dutch origin</u>					
Labour force	5,563	5,761	5,826	5,859	5,986
employed	5,233	5,437	5,452	5,436	5,574
unemployed	330	323	374	423	412
Non-working population	3,727	3,570	3,514	3,482	3,405
Total	9,290	9,331	9,340	9,340	9,391
<u>People of non-Dutch origin</u>					
Labour force	499	536	580	608	610
employed	411	448	473	484	489
unemployed	89	88	107	123	122
Non-working population	439	482	500	525	497
Total	938	1,018	1,080	1,133	1,107

d. estimate of irregular migrants, including visa abusers, by country of origin.

No statistics available.

Question 2: What measures are being taken to strengthen the promotion, protection and implementation of the human rights of migrants such as:

- a: legal measures;***
- b: public information and education***
- c: provision of direct assistance and service***
- d: other measures, including bilateral and multilateral arrangements***

Answer to a: legal measures

The Dutch government would observe that by signing numerous international declarations and conventions (including the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Convention on the Elimination of All Forms of Racial Discrimination), the Netherlands has undertaken to observe their provisions on human rights, which are also directly applicable in Dutch legislation (for example, article 26 of the ICCPR and article 18 of the ECHR).

Most of these rights are enshrined in the Constitution to emphasise the equality and rights accorded to all persons in the Netherlands. Article 1 of the Constitution provides that all persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted. Other fundamental human rights are enshrined in various articles of the Constitution, including article 6 (freedom of religion), article 7 (freedom of expression) articles 8 and 9 (freedom of association and assembly), articles 10 and 11 (the right to privacy and the inviolability of the person).

As regards efforts to combat racism and discrimination in particular, the Netherlands is a signatory to, for example, the declaration of intent "Europe against Racism" (1997) and a general declaration against racial discrimination (1992).

The right to equal treatment is reflected in statutory provisions under

- a) civil law, and**

b) criminal law.**a) Civil law**

The most important provision under civil law is the Equal Treatment Act, which prohibits any distinction between persons, whether direct or indirect, on the grounds of religion, belief, political opinion, race, sex, nationality, sexual preference or marital status (section 1). In accordance with the prevailing view, race is also understood to mean skin colour, origin or national or ethnic background. The following areas are within the scope of the Act:

- . employment
- . self-employment
- . the provision of goods and services
- . information about the choice of schools and occupations

b) Criminal law

The provisions under the Criminal Code concern a) the making of racist utterances (article 137c and 137d) or the distribution of written material in which they occur (article 137e) and b) actual discrimination on the grounds of race (articles 137g/article 429 quater). The Criminal Code also makes provision concerning participation in activities aimed at racial discrimination (article 137f).

The Dutch government's policy aims to strengthen the legal status of people of non-Dutch origin who are entitled to live in the Netherlands and to foster their participation in society, politics and employment. The following are some of the instruments available for this purpose:

- . the Minorities (Consultation) Act, which safeguards and regulates consultation with organisations representing minority communities
- . the Newcomers Integration Bill, which aims to offer newcomers to the Netherlands the opportunity to learn Dutch and to become integrated in Dutch society
- . a bill to promote equal employment of members of ethnic minority groups, further to the Fair Employment of Ethnic Minorities Act
- . the Elections Act, which entitles residents of non-Dutch origin to vote in local

elections

the Health and Social Services (Provisional Asylees) Act, which ensures that asylum-seekers admitted to the Netherlands receive all essential services.

Answer to b: public information and education

The main thrust of Dutch policy is to create conditions enabling all residents to exercise their fundamental rights. A project to mark the 150th anniversary of the Constitution devotes special attention to this matter. The government's efforts in this respect are geared to fostering good education and effective public information, both of which equip people to take advantage of the opportunities open to them to participate fully in society. The government therefore considers it important for newcomers to increase such opportunities to participate by becoming integrated in Dutch society. The government also promotes intercultural education so that pupils are aware that they live in a multicultural society.

The Minorities (Consultation) Act ensures that minority groups are given the opportunity to make their views heard and therefore play a full role in society. At the same time, it ensures that the government receives valuable feedback from this sector of the population, which is important for the development of new policy.

Within the context of the government's effort to prevent discrimination and racism, the National Anti-racism Committee launched a special campaign during the European Year Against Racism, highlighting consciousness-raising projects, racism in everyday situations and discrimination in the workplace. The government actively promotes codes of conduct to combat discrimination in trade and industry and in organisations of every kind. The government itself not only initiates awareness-raising projects (such as anti-racism broadcasts on television) but also supports those carried out by non-governmental organisations.

Answer to c: provision of direct assistance and service

The government provides a legislative framework to promote the rights of people from ethnic minority groups and ensure they are able to participate in society. One example is the bill to promote the integration of newcomers. The provision of direct assistance and individual help has been delegated to the lower tiers of government or is the responsibility of various non-governmental organisations. Central government nevertheless offers the funding and resources they need to carry out their work.

Answer to d: other measures, including bilateral and multilateral arrangements

Under the heading "legal measures", the government referred to the international conventions on human rights which the Netherlands has signed and to which it subscribes. The government also advocated the inclusion of an anti-discrimination clause in the Treaty of Amsterdam. In addition, the Netherlands is active in numerous fora of the European Union and the Council of Europe, focusing attention on the legal status of ethnic minority groups, particularly of nationals of third countries.

Question 3: Have there been manifestations (how many cases?) of racism, xenophobia and other forms of discrimination against migrants (a.) and against your nationals in another country (b.)

Answer to a:

The available statistics on the incidence of discriminatory and/or racist incidents are not entirely reliable because of problems relating to the registration of such cases. One obstacle is the fact that many incidents are not reported to the authorities or in the press; another is that the Netherlands does not yet have a national network of anti-discrimination agencies with a uniform registration system. The various police regions likewise use different registration systems. The following is therefore intended to give an impression of the situation, but the information is far from complete.

The National Bureau Against Racism is currently preparing a uniform registration system for the country's anti-discrimination agencies, partly to make the records more systematic. The government tries to keep track of the situation by monitoring incidents of racism and

discrimination. In September 1997, the Minister of the Interior submitted the first report on *Racism and Right-wing Extremists* to Parliament, which mentions the registration problems referred to above. The report contains the findings of a study, but notes that the figures it presents probably reflect under-reporting. The most recent data are for 1996 (see annexe 3: rate of violent and non-violent incidents per police region, 1994-1996). In 1996, the Internal Security Service and the National Criminal Intelligence Division registered 201 incidents of inter-ethnic violence as compared with 295 in 1994).

A survey of *Racist Violence in the Netherlands*, which the Ministry of Justice carried out in 1994, assessed the incidence of various kinds of racism, in addition to violence, such as graffiti, racist language and the distribution of discriminatory texts. The number of incidents totalled 1228 (690 of which were graffiti). Annexe 4 contains two tables giving the figures for 1994 relating to racist incidents and violence according to type of incident.

The Minister of the Interior has decided that reports of this kind shall continue to be published. More up-to-date figures are expected at the end of 1998, when the next Monitor is due.

No figures are yet available regarding the number of complaints lodged nationwide.

Answer to b:

As far as is known this does not occur.

Question 4. What steps have been taken in order to ratify the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization (ILO) Convention concerning Migration for Employment (Revised), 1949 (No. 97), and the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (no. 143)?

Answer:

a. the 1990 International Convention on the Protection of the Rights of All Migrant

Workers and Members of Their Families

The Kingdom of the Netherlands is not party to the Convention.

b. the International Labour Organization (ILO) Convention concerning Migration for Employment (Revised), 1949 (No. 97)

The Kingdom of the Netherlands ratified the Convention on 22 January 1952 (for the parts of the Kingdom in Europe).

c. the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (no. 143).

The Kingdom of the Netherlands does not intend to ratify this Convention.

Secretariat note: the enclosures to the present submission are kept by the Secretariat and are available upon request.



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Submission from the Permanent Mission of the United Arab Emirates
dated 31 March 1998

The Permanent Mission of the United Arab Emirates to the United Nations Organization and other International Organizations in Geneva presents its compliments to the Center for Human Rights and with reference to the document E/CN.4/1998/74/Add.1 dated December 26, 1998, has the honour to inform that the comments submitted by the non-governmental organizations Human Rights Advocates and World Young Women's Christian Association regarding alleged negative impacts of the legislation regulating the employment of migrant workers in the United Arab Emirates, are baseless.

The UAE Mission would like to mention that the Federal Labour Law No.8 (1980) safeguards the rights of employees vis-a-vis the employer and stresses on their adequate compensation in case of termination of their services and ensures all their legal entitlements and medical insurance. In this context, the U.A.E. Mission would like to mention, as well, that the UAE has ratified many fundamental international labour conventions. Therefore, many Federal Decrees have been issued by the UAE, such as the Federal Decree No.51 (1972) ratifying the Forced Labour Convention (1930), the Federal Decree No.30 (1996) ratifying the Equal Remuneration Convention No.100 (1951); the Federal Decree no.31 (1957) on the Abolition of Forced Labour, and the Federal Decree No .31 (1996) on the Minimum Age Convention No. 138 (1973).

The UAE Mission was hoping that the Center for Human Rights would provide it with these comments before hand and make sure of their accuracy before publishing them in the documents of the United Nations. Nevertheless, the UAE Mission would like to reconfirm its willingness to fully cooperate with the Center for Human Rights and would like to request to circulate this note as an official document of the United Nations.

The Permanent Mission of the UAE avails itself of this opportunity to renew to the Center for Human Rights the assurances of its highest considerations.

Geneva, 31 March 1998



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**Submission from the Government of Finland
dated 11 March 1998**



The following are the answers given by the Finnish Ministry of Labour to the UNHCR questionnaire on the human rights of migrants:

1.

On December 31, 1997, Finland had a total population of 5 147 485 people according to the Population Register Centre. At this time, 80 616 non-nationals were permanently resident in Finland. Statistics showing their countries of origin are enclosed.

On December 31, 1997, a total of 243 548 Finnish nationals were permanently resident abroad, most of them in the USA (13 830), Sweden (12 846), Germany (9 822) and the UK and Ireland (a total of 4 917). There were 3 746 Finns living in Australia and 3 614 in Norway.

It is difficult to give a total figure for non-nationals who hold 'authorization' to work in Finland. Non-nationals who wish to enter salaried employment in Finland are generally required to have a work permit. There are, however, numerous groups who are not required to have a work permit. Furthermore, immigration to Finland for the express purpose of working is very low compared with 'return migration' of people of Finnish ancestry, or with immigration for family reasons or on humanitarian grounds.

Nationals of EEA countries and their families form one group that enjoys unrestricted movement as a basic freedom. This applies to members of their families regardless of nationality. Nationals of the EEA-area, their spouses and their children, under age 21 or dependent, do not require work permits.

A non-national who has received a permanent residence permit does not require a work permit. Permanent residence permits are primarily granted to non-nationals who have resided in Finland legally and continuously for a period of two years.

A work permit is not required of a non-national who has received a fixed-term residence permit and

- who has been a Finnish citizen or has at least one parent who is or has been a Finnish citizen;
- who is the spouse or child of a Finnish citizen or of a foreigner permanently resident in Finland; or
- who is a refugee or an asylum-seeker who has been granted a residence permit.

Professions, occupations and activities which do not require a work permit have been set down in a decree. A student who has a residence permit also does not need a work permit for part-time or holiday jobs.

According to Directorate of Immigration statistics, a total of 9 606 work permit applications were approved in 1996. Decisions not to grant permits were made regarding 303 applications. 4 817 of the applications approved were submitted by first-time applicants.

There are no statistics on illegal immigrant labour.

2.

The Constitution Act of Finland states that basic human rights extend to all persons within the jurisdiction of Finland regardless of nationality. Section 5 of the Constitution Act states that all people are equal before the law. No one may be treated differently due to gender, age, origin, language, religion, conviction, opinion, ill health, disability or other personal reason without extenuating circumstances. Equality between the sexes is promoted in society and in working life, particularly with respect to wages and other terms of employment, as further specified in the law. Exceptions have, however, been made concerning the rights of non-nationals for instance in connection with their entry into and residence in Finland.

Under section 15 of the Constitution Act, everyone has the right to earn an income through a chosen profession, occupation or enterprise. Labour protection is the task of the public authorities. The public authorities shall promote employment and strive to ensure that everyone has the right to work. Certain official positions, mainly the highest posts, are, however, reserved for Finnish nationals. There is legislation concerning the right to training which promotes employment. It is forbidden to dismiss any employee without a legally valid reason.

Anyone who is unable to acquire for himself the basic necessities for a humane existence has the right to a minimum income and welfare support. Legislation guarantees everyone the right to basic income security during, for instance, periods of unemployment or disability (15 a §). This means that basic income security is also ensured in this kind of situation for people other than Finnish or EEA nationals who are resident in Finland.

The Penal Code (578/1995) defines discrimination and discrimination in the workplace as crimes. Under chapter 47, section 3, discrimination in the workplace is punishable by a fine or six months in prison for an employer or the representative of an employer who

- in advertising a vacancy, choosing a new employee or during an employment relationship
- without a weighty and acceptable reason
- places an applicant for a job or an employee in an unfavourable position

- 1) due to race, national or ethnic origin, colour, language, sex, age, family, sexual preference or state of health, or
- 2) due to religion, social opinion, political or union activity or any other, comparable, reason.

Non-nationals are subject to the Finnish labour legislation. The labour protection authorities supervise the implementation of the terms of the employment contract for non-nationals also. According to the legislation, employers must provide assurance to the labour market authorities dealing with a work permit application that the wages of a non-national and his other employment terms are in keeping with the collective agreement currently in force or, if there is no collective agreement in the field in question, that they correspond to the practices applied for Finnish workers.

In a situation where the employer is insolvent, employees have the option of receiving their wages and other employment benefits in the form of pay security. This also applies to non-nationals. Employers can also apply for their benefits from the employer through court proceedings.

The Ministry of Labour and its Division for Migration plays a coordinating role in producing information for migrants, either in their own language or in Finnish, that is clear and understandable to those who have not been in the country for many years. The Division for Migration (previously the Refugee Office at the Ministry of Social Affairs and Health) has done this work since the reception of refugees began and year by year both the amount of material dealing with different and acute issues, and the number of translated languages have increased. Leaflets and material are now mainly translated into 10 languages and even more when necessary. Material deal, for example, with issues such as reception of refugees and asylum seekers, day care, social and health services, having children, female circumcision, housing, dental care, rights and responsibilities, etc.

The Division's coordinating role means that it both produces information itself and encourages other authorities, organizations, NGOs and associations to produce information material in all the languages spoken in Finland. Many organizations dealing with health, social and child care issues have been especially active in co-operation. These have primarily offered expert help, but also share the costs.

In 1997, the Division focused on improving migrants' ability to operate in society. In co-operation with civic organizations, it organized training sessions at which migrants were informed about the skills needed in association activities, fund raising, project planning, etc. Civic organizations were in fact very active in this project and many of them added various kinds of training courses for migrants to their action plans. Training material for this purpose was also produced jointly.

A training session for migrants, NGO activists and various authorities was arranged in April 1997 to raise awareness of discrimination against ethnic groups and discuss how to prevent it. The training session was organized jointly with the Finnish Red Cross and one of its purposes was to encourage people to take local initiatives in monitoring and preventing discrimination.

Many recent events in Finland have brought migrant women into focus. A number of formal and informal training sessions have been organized to handle various issues affecting migrant women. The Division for Migration has also produced a leaflet called Migrant Women in Finland to explain the rights migrant women have, for example when they are living in the country as the wife of a Finn.

The Advisory Board on Migration and Refugee Affairs operates under the Ministry of Labour as a negotiating body between ministries and NGOs working in the field. The Board ran a tolerance campaign for 3 years (1995-1997) the main purpose of which was to finance various kinds of grass-root projects promoting tolerance in different ways. Altogether 124 projects were supported. The target of many projects was to increase public knowledge about migrants' rights, human rights and the value of multiculturalism.

The Ministry of the Interior, in turn, set up a committee on immigration and refugee policy to prepare an aliens policy programme for the Government. Consequently, a Government programme on migration and refugee policy was approved on October 16, 1997.

Integration into Finnish society of migrants intending to reside permanently in the country will be supported. The objective is a society where ethnic equality and the right of migrants to maintain and develop their own religion and culture is a reality. The starting points for official integration policy are both migrants' own responsibilities and their equality in society. The policy programme thus drew up an integration policy for migrants on the national, local and individual level. Opportunities for migrants to participate and exert influence in various sectors of society, and in particular in planning and implementing services actually for them, will be increased.

Equality can be attained if migrants are given a chance to study the language of the country, to get information and instruction on how society functions, and to supplement their studies and vocational skills. The Government intends to increase services that promote the integration of migrants.

A proposal for a law on the reception of asylum seekers and integration of migrants will be placed before Parliament in spring 1998. It will include sub-proposals for integration plans, integration support/benefits and the duties of public authorities concerning reception and integration.

If they live in Finland permanently, migrants have the same standing as Finns. However, refugees are entitled to special measures: for instance, municipalities will arrange initial accommodations for refugees accepted by the local authority.

The Government aims to give all adult migrants in need of language training, etc. a chance to participate both in migrant education offering them orientation into Finnish society and working life, and basic and complementary vocational training. Adult migrant education is to be financed and arranged in the form of adult labour market education. A 40-week curriculum is arranged for all refugees accepted by Finland and some other newcomers.

The Government programme on immigration and refugee policy will be implemented gradually and financed mainly out of the State budget.

As regards the reception of refugees, certain municipalities have committed themselves to the reception of refugees and to providing specific services taking into account the refugees' own needs. These municipalities have made the necessary preparations (e.g. planning and in-service training), reserved adequate rented housing for the refugees, arranged guidance and support services, interpretation, introductory classes at comprehensive schools for children, and social and health services. The refugees are entitled to one-year full-time migrant training which includes language and civic skill studies, as well as to vocational guidance and work training provided by the employment authorities. After this migrant training, refugees have the opportunity to get vocational training suiting their personal abilities. Special measures to promote the refugees' own culture and native language are available, especially for children and adolescents.

3.

On February 6, 1997, the Council of State approved in principle a decision on government measures to promote tolerance and prevent racism. This decision in principle obliges the entire ministerial administration to act against racism and to promote tolerance.

The Council of State made a decision in principle on October 16, 1997 on an immigrant and refugee policy programme for the Government. The programme emphasizes the importance of action by the authorities against racism and ethnic discrimination. Furthermore, the programme has also been used as a base for starting preparation of a national monitoring programme for racism and ethnic discrimination to be implemented during 1998-99.

The President of the Republic of Finland condemned racism and appealed to all Finns in his New Year's speeches in 1997 and 1998.

The President of the Republic of Finland and the Government have appealed, in different contexts, to the Swedish Government to give the Finnish language and the Finnish-speaking population in Sweden official minority status. Finnish is now about to receive official recognition in Sweden as a minority language.

4.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN), 1990

At the end of 1997, the Convention had been ratified by only nine states (Bosnia-Herzegovina, Cape Verde, Columbia, Egypt, Morocco, the Philippines, the Seychelles, Sri Lanka and Uganda). The Convention thus does not have international force, which would require the ratification or approval of 20 states.

In a statement to the Ministry of Foreign Affairs on October 2, 1991 regarding ratification of the Convention in Finland, the Ministry of Labour found that "the convention on the rights of migrants and members of their families appears to be in accordance with Finnish policy on human rights. It also corresponds with the principles of Finnish migrant policy ..." Ratifications remain few, however, and ratification of the Convention is not under consideration at present, as far as we know. The Migration Division of the Ministry of Labour is, however, investigating the accordance of the Convention with Finnish regulations currently in force.

The ILO Convention concerning Migration for Employment (Revised), 1949 (No. 97)

By June 1, 1997, Convention no. 97 had been ratified by 40 states including eight EU Member States (Belgium, France, Germany, Italy, the Netherlands, Portugal, Spain and Britain). Norway has also ratified the Convention. No new ratifications have taken place in recent years. Although Finland has not ratified this Convention, it is committed to complying with regulations which are, in part, very similar, having ratified the EU Social Charter in 1991; Article 19 of the Social Charter is based on this Convention.

The prerequisites for ratification of the Convention were subject to tripartite investigation by the convention division of the Finnish Tripartite ILO Committee in 1986 and 1995. At present the situation is being studied in connection with a questionnaire on unratified ILO conventions.

According to the 1986 study by the convention division of the ILO Committee, the key principles of Finland's legislation are in agreement with the Convention. The Convention was nevertheless placed in the category 'conventions not recommended for ratification'. The current view is that the Convention is already outdated in many respects and ratification of it is not considered to be in line with current objectives. Convention no. 143, intended to complement Convention no. 97, represents more contemporary thinking. Where this particular Convention is concerned, however, there are certain obstacles to ratification which will be presented in closer detail below.

The ILO Convention concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (No. 143)

By June 1, 1997, Convention no. 143 had been ratified by 17 Member States, four of them western European countries (Italy, Norway, Portugal and Sweden). Finland has not ratified the Convention because its legislation is not considered to fulfil the requirements of the Convention. The prerequisites for ratification of this Convention were also subject to investigation by the convention division of the Finnish Tripartite ILO Committee in 1986 and 1995, and this Convention is currently also under further study in connection with the ILO questionnaire mentioned above.

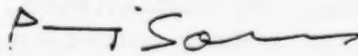
In addition to the final provisions, the Convention consists of two parts which can be ratified separately. Part I contains regulations on abusive practices connected with migration, while Part II deals with equal treatment of migrant workers. In 1995, based on a study it had carried out, the Finnish Tripartite ILO Committee found that Part I of the Convention could not be ratified without legislative amendments. The prerequisites for ratification of Part II did seem to exist, however.

There have not been any great changes made to the Finnish legislation in force at the time of the study or in its practical application. The current view is that there are also some obstacles to ratification of Part II. Reform of the legislation concerning foreigners and of the Ministry of Labour's procedure for granting work permits is in progress, but it is not likely to eliminate the obstacles to ratification.

Finland's policies in regard to immigration and non-nationals are not in conflict with the general aims of Convention no. 143. In looking at amendments to the legislation and at its practical application, it should be taken into account that Finland is committed to the Council of Europe's resolutions on the admission of third-country nationals, and - in this context - particularly to the resolution on limitations on admission of third-country nationals into the Member States for employment (96/C 274/01).

In conclusion, it should be said that the processing of the Commission's proposal for a convention on rules for the admission of third-country nationals to the Member States of the European Union is underway. Processing of the proposal is still in its early stages.

Secretary General


Pertti Sorsa

Senior Government Secretary


Eeva-Liisa Vuolanen

Secretariat note: the enclosures to the present submission are kept by the Secretariat and are available upon request.



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ANNEX

Submission from the Government of the Republic of Sudan
dated 26 May 1998

TOPIC : MIGRANT WORKERS IN SUDAN

A./ Sudan hosts around 15,000 Migrants (those registered), working mainly in sectors of Trade, Agriculture and Investment.

i./ Trade: - Migrants on this sector mainly come from Egypt, Jordan, Syria, Libya and Lebanon

ii./ Agriculture : - The majority come mainly from Africa and in particular Chad, Niger, Nigeria, Mali, and Burkina Faso.

iii./ Investments: - The majority come from China, Jordan, Lebanon, Syria, Libya, United Arab Emirates, Malaysia, Republic of Korea, Iran and Saudi Arabia.

B./ The Government established a special department to provide services for Migrants including provisions for education, orientation and other needed services.

C./ Laws and Regulations facilitating a comfortable stay for migrants include Long Stay permits, the right to acquire the nationality after a certain elapse of time and meeting the required conditions, and other incentives for those who make valuable contributions in the country.



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**Submission from the Permanent Mission of Malta
dated 12 May 1998**

12 May 1998

**THE MALTESE RESPONSE TO THE QUESTIONNAIRE ON THE
HUMAN RIGHTS OF MIGRANTS**

1. The latest known figures of total population, including non-nationals by country of birth, are those obtainable from the latest Census held in 1995, which are as follows:

Malta	360,392
United Kingdom	6,223
Italy	776
France	114
Germany	377
Other EU Member Countries	408
Other European Countries	574
USA	971
Canada	1,617
Australia	4,008
Libya	508
Other Countries	<u>2,164</u>
Total	378,132

The number of migrants by country of residence and returned migrants by country of last permanent residence for the years 1931/32 up to 1996, are shown in attached Appendix A.

The number of non-nationals authorised to work in Malta as on the 11 May 1998 was 2100.

During 1997 there were a total of 385 foreigners who overstayed, landed without permit/sufficient means, used forged or false travel documents or were found working without necessary permit. The countries of origin and the relative number of these foreigners were as follows:

Bulgaria	146
Libya	94
Egypt	27
Morocco	19
Tunisia	19
Bangladesh	17
Syria	15
Others	<u>48</u>
Total	385

During the same year there were a total of 2,110 inadmissible passengers which were coming from the following countries of origin:

Morocco	554
Egypt	495
Tunisia	293
Libya	127
Sudan	114
Bangladesh	72
Syria	46
Pakistan	43
Ghana	40
Turkey	31
India	28
Nigeria	23
Sierra Leone	20
Somalia	19
Gambia	18
Russia	16
Algeria	14
Bulgaria	14
Lebanon	13
Yugoslavia	11
Iraq	10
Other	109

2. On the 27 May 1971, Malta acceded to the Convention on the Elimination of All Forms of Racial Discrimination. As can be seen from the demographic information supplied in reply to question 1, there is no significant ethnic minority which warrants any fear as to the safeguarding of any ethnic minority's rights. It is for this reason that the need is not felt to enact ad hoc legislation in this respect. Indeed it is felt that the existing legal provisions guarantee a social life which excludes racial discrimination. The setting up of the Office of the Ombudsman in 1995, with the function to investigate administrative actions taken by or on behalf

of Government Departments, Local Councils and other public authorities ensures the protection of the individual, irrespective of his/her nationality, against any abuse and will see that the administration is just and fair in its decisions. This promotes freedom and justice in an effective and efficient manner.

Campaigns are undertaken from time to time in the media to raise the public awareness against racial discrimination. The concept of racial tolerance and understanding is included in the compulsory social studies component of the national curriculum. Students are encouraged to correspond with children in other countries and efforts are continuously made to increase the number of foreign students studying in Malta. The number of foreign students studying English in Malta is ever on the increase with a number of these students being hosted by Maltese families. All these measures are encouraged and are seen as a means of preventing problems related to racism and discrimination.

3. No manifestations referred to in the question have been experienced.


JEBEJER
for Permanent Secretary (Home Affairs)

RETURNING EMIGRANTS

Source: Department of Emigration, Labour and Social Welfare

• Enrollment was negligible during war years

Emigrants

Emigrants					Year	Returning Emigrants						
Country of future permanent residence						Country of last permanent residence						
Australia	Canada	United Kingdom	U.S.A.	Other		Total	Australia	Canada	United Kingdom	U.S.A.	Other	Total
5,349	1,113	1,444	84	100	8,080	1965	314	34	164	-	18	530
2,258	648	1,092	282	60	4,340	1966	114	2	77	-	-	193
2,081	752	856	251	21	3,971	1967	1	-	35	-	-	36
1,564	478	638	258	54	2,992	1968	337	-	4	2	-	343
1,229	394	683	299	43	2,648	1969	49	26	181	26	-	282
1,469	332	640	319	36	2,696	1970	33	33	216	32	3	317
1,762	308	527	178	23	2,790	1971	11	6	123	3	-	143
1,653	467	597	213	33	2,163	1972	25	14	148	13	2	202
2,416	768	603	253	19	4,059	1973	21	39	154	12	4	230
2,595	755	581	252	6	4,189	1974	63	57	393	21	1	535
691	441	254	226	12	1,624	1975	558	517	1,572	269	41	2,957

32. MIGRANTS YEARLY FROM 1976 TO 1986

Emigrants						Year	Returning Emigrants					
Country of future permanent residence					Country of last permanent residence							
Australia	Canada	United Kingdom	U.S.A.	Other	TOTAL		Australia	Canada	United Kingdom	U.S.A.	Other	TOTAL
619	202	113	162	11	1107	1976	1344	318	721	76	13	2472
796	213	97	126	5	1237	1977	1286	238	615	113	9	2261
959	269	100	246	3	1577	1978	935	279	394	63	7	1678
765	248	82	205	3	1303	1979	1177	347	588	158	9	2289
981	213	48	129	3	1374	1980	886	178	622	61	6	1753
1548	271	30	106	11	1966	1981	745	203	591	92	13	1644
636	135	46	104	17	938	1982	497	94	509	88	5	1193
403	66	49	103	20	641	1983	439	98	447	69	- 1	1052
356	91	65	86	31	629	1984	231	112	253	56	2	654
493	64	47	99	28	731	1985	247	120	271	59	3	700
525	88	26	72	26	737	1986	283	165	149	43	2	622

* Figures comprise all returned emigrants; Data, as submitted by Director of Labour up to June 1985, thereafter estimated.

32. MIGRANTS YEARLY FROM 1987 TO 1996

Emigrants						Returning Emigrants						
Country of future permanent residence						Year	Country of last permanent residence					
Australia	Canada	United Kingdom	U.S.A.	Other	Total		Australia	Canada	United Kingdom	U.S.A.	Other	Total
475	79	43	49	24	670	1987	153	78	100	27	7	365
339	108	43	41	30	561	1988	506	103	195	105	27	936
217	74	43	43	22	399	1989	430	87	121	60	14	722
81	27	10	27	15	160	1990	410	98	201	104	45	858
78	23	9	20	10	140	1991	525	130	259	160	50	1124
83	24	12	23	11	153	1992	396	87	188	85	54	820
31	8	10	12	5	66	1993	346	106	249	66	70	837
54	3	9	35	3	104	1994	262	108	233	78	80	761
55	3	10	36	3	107	1995	191	81	204	61	84	621
51	...	43	...	...	94	1998	127	52	124	44	52	399

Source:

Re-Returned Emigrants: The 1987 figures were supplied by the Dept. of Trade. Since 1988 the Dept. of Customs has been furnishing the data

Re-Emigrants: The 1995 figures have been estimated, since the Dept. of Labour has stopped keeping records of prospective emigrants, whereas the 1996 figures were supplied by the respective embassies.



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INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Reply from the Government of Honduras
dated 5 June 1998

QUESTIONNAIRE ON THE HUMAN RIGHTS OF MIGRANTS

1. Latest figures or estimates for:

(a) Total population, including non-nationals of Honduras, by nationality of origin.

The population of Honduras in 1997 was 5,754,512, plus 51,037 non-Honduran residents.

(b) Number of nationals abroad.

The Directorate-General of Population and Migration Policy does not at present keep records of nationals resident abroad. However, in respect of population, there are plans to set up a programme to establish how many nationals have settled abroad, in order to check on their migrant status and living conditions and to pass information between them and their families.

(c) Non-nationals having authorization to work in the country.

All non-nationals legally resident in the country are authorized to work, in accordance with their category of residence and provided that the specific activity is authorized in the residence permit issued by the Department of Government and Justice.

(d) Estimates of irregular migrants by country of origin.

It is not possible to provide estimates of irregular migrants owing to a lack of information.

2. Measures being taken to strengthen the promotion, protection and implementation of the human rights of migrants.

(a) Legal measures.

The Constitution of Honduras states, in article 59, that "the human person is the paramount goal of society and the State. All have the obligation to respect and protect it. The dignity of the human being is inviolable"; and, in article 60, that "all men are born free and endowed with equal rights. There are no privileged classes in Honduras. All Hondurans are equal before the law. Any discrimination by reason of sex, race, class or any other consideration contrary to human dignity is punishable."

Honduras was the first country in the Central American region to designate the offence of trafficking in migrants, and the penalty for traffickers is between five and nine years' imprisonment; the penalty is increased by between one third and two thirds if those committing the offence are public officials or employees and if the "passive" subjects are deprived of their liberty abroad, or are the victims of crime, or in the event of their death, even accidental death (Decree No. 120-94, of 30 August 1994).

In the framework of the regional project of the Central American Organization for Migration (OCAM) entitled "Migration Instruments for the Integration of Central America" (PROCAM), a proposal has been drafted for a

set of migration policies and another for a migration code. These are at the discussion stage in Honduras, but may be expected to form the basis of new, modern domestic legislation on the subject in the near future. Both documents contain clear, precise policies and standards for the protection and implementation of migrants' human rights.

(b) Promotion and protection of the human rights of migrants.

The worthy efforts of non-governmental organizations on behalf of migrants represent a laudable exercise in cooperation with the Government, and Honduras acknowledges the value of their work. At various times and in various ways it has let them know how valuable their presence is, in both material and moral terms, and that they should continue to work for the good of those who are obliged to travel far from home and are in need of support.

With the help of various organizations and national institutions, such as the pastoral-social Caritas, the Office of the National Commissioner for Human Rights in Honduras, the Directorate-General of Population and Migration Policy, the Centre for Promotion and Research into Human Rights in Honduras (CIPRODEH) and a National Association of Non-Governmental Organizations of Honduras (ASONOG), a National Forum on Migration in Honduras (FONAMIH) was organized recently, with the aim of coordinating efforts in support of migration processes and making the most appropriate contribution to solving the problems of migration in the region.

FONAMIH arose as a response to the policies, statements and agreements that emerged from regional forums on migration, at which the Governments of participating countries acknowledged that the origins, forms and consequences of migration are matters of the highest relevance for the international community's agenda.

(c) Implementation of the human rights of migrants.

As mentioned above, the number of non-nationals resident in Honduras is currently 51,037, and they come from 115 countries. They are given the same treatment as nationals; they have the same rights, with the exception of a few reserved under the Constitution for nationals, such as the right to vote and the right to take part in political activities.

Honduras is a hospitable country whose borders are open to anyone wishing to visit it, without distinction as to race, religion, ideology, etc. Entry is conditional only on the provisions of domestic legislation and subject to bilateral or multilateral treaties or conventions with other countries, which are fully implemented and strictly observed.

3. Manifestations of racism, xenophobia and other forms of discrimination against migrants in Honduras and against Honduran nationals in other countries.

There is no discrimination of any kind in Honduras. By contrast, Honduran nationals, at any rate those living irregularly in the United States of America, are undergoing a period of severe discrimination, insofar as they

are not treated in the same way as Guatemalans, Salvadorans and Nicaraguans but are mercilessly deported in very dangerous, inhuman conditions that violate the most fundamental human rights.

The problem of deportation is not a new one but it has become a cause for greater concern since the United States enacted the Illegal Immigration Reform and Immigrant Responsibility Act in 1996.

When receiving Hondurans deported from the United States, the Directorate-General of Population and Migration Policy has noted that their forcible return has a number of damaging effects, viz:

- Deportation is carried out very rapidly;
- There is a limited right of appeal;
- Parents and children are separated, in violation of the principles of family unification;
- It is most often Hondurans who are singled out in the workplace, for no apparent reason;
- There are restrictions on medical care and education for migrants.

The new United States Immigration Act classifies irregular residence by the immigrant as an offence nearly comparable with offences that attract harsh sentences under other legislation.

Migrants are not permitted to:

- Collect their final pay cheque;
- Remove personal effects from their homes;
- Inform relatives that they have been detained and where they are being held;
- Withdraw bank savings.

They are also compelled to sign, without legal representation, a document preventing them from returning to the United States for between 3 and 10 years.

4. Steps taken to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and International Labour Organization (ILO) Convention No. 97.

The Ministry of Labour and Social Security is currently examining this matter. Notification of the outcome will be provided in the near future.



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Report of the Secretary-General

ANNEX

Reply received from the Government of Colombia
dated 29 April 1998

Geneva, 29 April 1998

MPC. No. 542

Sir,

Enclosed please find official letter EE/DH No. 005283 addressed to you, transmitting replies to the questionnaire received from the members of the Intergovernmental Working Group of Experts on Human Rights of Migrants.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed): GUSTAVO CASTRO GUERRERO
Ambassador, Head of Mission

EE/DH No. 005283

The Ministry of Foreign Affairs presents its compliments to the United Nations High Commissioner for Human Rights and has the pleasure to refer to note G/SO 212/26(1), transmitting the questionnaire prepared by the Working Group of Experts seeking relevant information on the obstacles encountered in protecting the human rights of migrants.

The Ministry of Foreign Affairs has the honour to submit the following replies to the questions raised by the members of the Working Group:

1. According to the 1993 census, Colombia's total population is 37,422,791, which includes all persons who were present in Colombia on the date of the census, but does not indicate the number of foreigners.

The number of Colombian nationals abroad is found in the attached tables (annexes 1 and 2), prepared by the Ministry's Unit for Colombian Communities Abroad and Consular Affairs and by the Administrative Department of Security (DAS). It should be noted that the data collected by the Unit does not accurately reflect the current situation, as a great number of Colombian nationals do not register with Colombian consulates.

2. Article 100 of the Constitution states, "Aliens in Colombia shall enjoy the same civil rights as Colombian citizens ..." and "Similarly, while in the territory of the Republic, aliens shall enjoy the guarantees granted to citizens, except for the limitations established by the Constitution or the law ...".

Decree No. 2371 of 1996 establishes rules governing aspects of the visa regime, including classification, the procedure for issuing visas and all other matters relating to migration control.

As part of its policy of improving assistance to foreigners, the Visa Division of the Ministry of Foreign Affairs has undertaken a modernization of its services, including the introduction of a direct telephone information line and use of the Internet.

With a view to facilitating assistance to foreigners, the Division has submitted a project for decentralizing services through the opening of offices in department capitals. This measure, which is already in effect in Cali, will avoid the need for foreigners to travel to the capital or use the services of middlemen in conducting business with the Division.

As regards bilateral and multilateral human rights measures, the Ministry continues to issue UNHCR-approved travel documents conforming to the 1951 Convention and 1967 Protocol relating to the Status of Refugees, at the request of the Office of the United Nations High Commissioner for Refugees in Colombia.

In fulfilment of the Universal Declaration of Human Rights, the American Convention on Human Rights (Pact of San José) and the above-mentioned international instruments on refugees, Decree No. 2191 was enacted on 3 September 1997 and contains provisions governing the issue of travel

documents, especially to stateless persons, persons granted asylum, refugees and foreigners in Colombia when they are nationals of countries which do not have diplomatic or consular representation in Colombia and are unable to obtain a passport in their place of origin.

3. The Ministry of Foreign Affairs has not received any complaints of discrimination against migrants in Colombia to date. Regarding Colombians abroad, however, the Ministry has received complaints of discrimination against Colombian nationals in various situations.

One of the main causes of discrimination by authorities at ports of entry is the stigmatizing of Colombian nationals because of the country's difficulties with the drug traffic. Tourists have been treated with scorn and their luggage damaged or pierced with sharp objects, destroying clothing and other belongings inside.

Reference should also be made to the situation of Colombian migrants abroad, who may be discriminated against in work, are frequently hired on disadvantageous terms, occasionally denied social benefits and, in some cases, deported. Cases have arisen of large-scale deportations of agricultural workers living in foreign countries, for whom the Colombian Government has provided humanitarian aid on their arrival in the country.

Mention should also be made of the situation of children of Colombian citizens legally residing in other countries, who were born in the territory of those States, and are denied the right to be registered as nationals in the country where they were born, resulting in failure to recognize the right to a nationality provided for in the Convention on the Rights of the Child.

Another discriminatory situation concerns Colombian and other nationals legally residing abroad, whose human rights have been violated in the course of visa renewals, when their passports have been confiscated by the authorities and handed back to them through their respective embassies.

It is very important to bear in mind that, in attempting to resolve these difficulties, Colombia has always used diplomatic channels and has lent humanitarian assistance whenever it has been informed by the respective Government of the eviction or deportation of Colombian nationals.

Also worthy of mention is the discrimination against Colombian citizens deprived of their liberty abroad. In some cases, Colombian prisoners subjected to overcrowding and ill-treatment have resorted to hunger strikes to make their situation known and obtain repatriation to serve their sentences in Colombia. In other cases, ignorance of the laws and language of the country where they are incarcerated prevents them from duly exercising their right of defence before the competent judicial bodies.

Although the Ministry has been informed of the situations described above, it does not have figures on the number of persons whose human rights have been violated.

4. Through Act No. 146 of 13 July 1994, the Congress of the Republic adopted the 1990 International Convention on the Protection of the Rights of

All Migrant Workers and Members of Their Families. The Constitutional Court declared this instrument enforceable with reservations in Judgement C-106/95 of 15 March 1995 and 24 May 1995. Colombia established the international nexus with the United Nations by depositing its instrument of accession, which entered into force on that date.

The Government is about to begin considering ILO Convention No. 97 concerning Migration for Employment and No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, of 1975.

Additional information is available in the attached tables, which have been prepared by the above-mentioned institutions.

The Ministry of Foreign Affairs of Colombia takes this opportunity to convey to the United Nations High Commissioner for Human Rights the renewed assurances of its highest consideration.

Santafé, Bogotá D.C., 6 March 1998

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